

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephanie Dukich	Team: Squad #08	CCRB Case #: 202203788	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/10/2022 11:05 PM, Saturday, 06/11/2022 12:11 AM	Location of Incident: 86th Street and Gelston Street in Brooklyn; § 87(2)(b) in Brooklyn	18 Mo. SOL 12/10/2023	Precinct: 68		
Date/Time CV Reported Fri, 06/10/2022 11:24 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 06/10/2022 11:24 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. PO Olga Bentin	03321	968962	068 PCT
3. PO Sarah Toro	24124	969396	068 PCT
4. PO Anisa Serani	11784	965863	068 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Inna Zourkovsky	25126	970342	068 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Olga Bentin	Abuse: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Olga Bentin forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)
B. PO Anisa Serani	Abuse: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Anisa Serani forcibly removed § 87(2)(b) to the hospital.	§ 87(2)(b)
C. An officer	Abuse: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, an officer failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
D. PO Sarah Toro	Abuse: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Sarah Toro failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
E. An officer	Abuse: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, an officer obstructed his shield number.	§ 87(2)(b)
F. PO Sarah Toro	Abuse: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Sarah Toro forcibly touched § 87(2)(b)	§ 87(2)(b)
G. PO Sarah Toro	Abuse: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Sarah Toro made a sexually suggestive remark to § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
H. PO Olga Bentin	Abuse: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Olga Bentin frisked § 87(2)(b)	
I. PO Olga Bentin	Abuse: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Olga Bentin searched § 87(2)(b)	
J. An officer	Discourtesy: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, an officer spoke discourteously to § 87(2)(b)	
K. An officer	Discourtesy: On June 11, 2022, at 4802 10th Avenue in Brooklyn, an officer spoke discourteously to § 87(2)(b)	

Case Summary

On June 10, 2022, § 87(2)(b) filed this complaint via the CCRB's Call Processing System.

On June 10, 2022, at approximately 11:05 p.m., at the intersection of 86th Street and Gelston Street in Brooklyn, Police Officer Olga Bentin and Police Officer Anisa Serani of the 68th Precinct forcibly removed § 87(2)(b) to § 87(2)(b) in Brooklyn with § 87(2)(b) and § 87(2)(b) (**Allegations A and B: Abuse of Authority, § 87(2)(g)** Police Officer Sarah Toro and Police Officer Inna Zourkovsky of the 68th Precinct also responded to the incident. According to § 87(2)(b) an additional male officer also arrived on scene. An officer and PO Toro allegedly refused to provide § 87(2)(b) with their business cards (**Allegations C and D: Abuse of Authority, § 87(2)(g)** An officer allegedly covered his shield with his arm throughout the interaction (**Allegation E: Abuse of Authority, § 87(2)(g)**

PO Toro allegedly patted down the lower part of § 87(2)(b) body, during which time she allegedly grabbed his testicles and buttocks (**Allegation F: Abuse of Authority, § 87(2)(g)** As she grabbed his testicles, PO Toro allegedly asked § 87(2)(b) "Oh, do you like that?" (**Allegation G: Abuse of Authority, § 87(2)(g)**

BWC reveals that PO Bentin frisked § 87(2)(b) and searched his pockets and backpack (**Allegation H: Abuse of Authority, § 87(2)(g)** **Allegation I: Abuse of Authority, § 87(2)(g)**

§ 87(2)(b) told an officer that he did not need to go to the hospital, and the officer allegedly responded that he did not "fucking care" (**Allegation J: Discourtesy, § 87(2)(g)**

Subsequently, at § 87(2)(b) after 12:11 a.m. on June 11, 2022, a male officer allegedly told § 87(2)(b) "You're just a fucking waste of space. You shouldn't have been born" (**Allegation K: Discourtesy, § 87(2)(g)**

The investigation obtained BWC videos recorded by PO Bentin, PO Serani, PO Toro, and PO Zourkovsky (Board Review 01). PO Bentin's BWC captures the incident in the most detail (Board Review 02).

Findings and Recommendations

Allegation (A) Abuse of Authority: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Olga Bentin forcibly removed § 87(2)(b) to the hospital.
Allegation (B) Abuse of Authority: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Anisa Serani forcibly removed § 87(2)(b) to the hospital.

On June 15, 2022, § 87(2)(b) provided a statement to the CCRB via telephone. He stated that on June 10, 2022, at approximately 11:05 p.m., he received a text message from PO Bentin saying that there was a 911 call about a homeless person stabbed at 86th Street and 5th Avenue. § 87(2)(b) had previously met PO Bentin at a homeless encampment, and she had stayed in touch with him in case he wanted to get help finding housing. PO Bentin knew that § 87(2)(b) slept on a bench in front of a shuttered sporting goods store at the intersection of 86th Street and Gelston Avenue in Brooklyn. She told § 87(2)(b) via text that she wanted to make sure he was not injured. § 87(2)(b) replied via text that he was not hurt and then

called PO Bentin to learn more. § 87(2)(b) told PO Bentin where he was, and PO Bentin said that she was on her way to his location. § 87(2)(b) wore a white t-shirt, black and blue sweatpants, a navy-blue jacket, and carried a red backpack.

§ 87(2)(b) went back to the bench to wait for PO Bentin. A few minutes later, a white male officer and a female officer arrived with two EMTs. The officers asked § 87(2)(b) to show them his arms and wrists, and § 87(2)(b) asked why they wanted to see them. The female officer replied that they wanted to make sure he was not injured, and the male officer asked § 87(2)(b) if he was “shooting up” or on any drugs. § 87(2)(b) replied that he was not on any drugs and showed them his arms and wrists to prove he was not injured. Both officers asked § 87(2)(b) if he had a knife, and he replied that he did not.

Either the EMTs or one of the officers told § 87(2)(b) that they were going to take him to the hospital. The EMTs told § 87(2)(b) that he did not have a choice in the matter. Subsequently, the officers transported § 87(2)(b) to the emergency room at § 87(2)(b). § 87(2)(b) waited at the hospital for approximately twenty minutes and was discharged after speaking with a doctor (Board Review 03).

PO Bentin gave a statement to the CCRB on November 29, 2022. She stated that on June 10, 2022, at approximately 10:55 p.m., she received a call over the radio about a white male, approximately 29-years-old and wearing blue jacket and sweatpants with a red backpack, who was cutting his wrists with a piece of glass in the vicinity of Gelston Street and 86th Street. The description matched that of § 87(2)(b) a nonviolent schizophrenic homeless young male in her patrol area who had been the subject of multiple 911 calls alleging suicidal behavior. PO Bentin had responded to jobs involving § 87(2)(b) on many prior occasions, beginning early spring of 2022. PO Bentin had previously given § 87(2)(b) her work phone number and told him to call if he needed help. § 87(2)(b) sometimes called 911 on himself, providing his description and alleging suicidal behavior. He often wore the same dark sweatpants and hoodie with a red backpack. PO Bentin had responded to an unrelated 911 call involving § 87(2)(b) several days earlier, though she could not recall what that call was about exactly. In her experience, § 87(2)(b) typically hides from the police and denies making any calls once they respond.

PO Bentin believed that in this instance, § 87(2)(b) used an app on his cell phone to text a 311 complaint about himself, which was then transferred to 911. The 311 text complaints continued to come through as PO Bentin approached the scene but stopped when she arrived. There was a callback number, § 87(2)(b) attached to the complaint. PO Bentin did not verify whether this number belonged to § 87(2)(b). She tried to call the number before arriving on scene but did not receive an answer.

PO Bentin and PO Serani arrived on scene at the same time PO Toro and PO Zourkovsky. They located § 87(2)(b) on the ground near the entrance of a sporting goods store. § 87(2)(b) matched the description from the 911 call and was also wearing a heavy black winter coat. PO Bentin did not observe any broken glass or weapons on the scene when she arrived. EMS was on the scene when PO Bentin arrived. PO Bentin communicated to EMS that they were responding to a 911 call regarding a man cutting his wrists. The EMS responders stated they were also familiar with § 87(2)(b) from previous encounters that involved his removal to the hospital.

PO Bentin and PO Serani approached § 87(2)(b). PO Bentin asked him what happened, and he responded, “I don’t know.” § 87(2)(b) denied texting 311 himself. PO Bentin asked § 87(2)(b) to show her his wrists. He did so, and PO Bentin saw that there were no

injuries. PO Bentin also did not see any other injuries. § 87(2)(b) did not threaten to hurt himself while PO Bentin was on scene. PO Bentin did not know if § 87(2)(b) was regularly taking any medication at the time of the incident. A male EMT made the decision to take § 87(2)(b) to the hospital due to the nature of the 911 call. § 87(2)(b) was not acting violently, so he was not handcuffed. EMS wanted an escort inside of the ambulance due to unrelated incidents involving assaults inside ambulances.

§ 87(2)(b) walked to the ambulance. PO Bentin did not remember § 87(2)(b) saying that he did not want to go to the hospital. PO Toro accompanied EMS and § 87(2)(b) in the ambulance. PO Zourkovsky followed the ambulance in a police vehicle to the § 87(2)(b) Hospital (Board Review 04).

The investigation determined that an unidentified individual – possibly § 87(2)(b) himself – texted 311 and reported that an apparently unhoused individual matching § 87(2)(b) description had cut his wrists at the location in question. The 311 operator then called 911. The investigation obtained a recording of the 311 operator’s 911 call (Board Review 05). In the call, the 311 operator reports “a homeless person who apparently slit their wrists.” She states that she is waiting to receive a response about the location. The 311 operator then relays a description: a “white male, around 29-years-old.” The 311 operator states that over the 311 report is being made via text text, and so she does not know the identity of the texter. She provides a call-back for the person texting 311: § 87(2)(b). At 1:21, the 311 operator states that the location is 86th Street and Gelston Avenue in Bay Ridge, Brooklyn. She adds that the male is wearing a blue jacket and black sweatpants, carrying a red backpack, and stands around 5’8” tall. At 3:22, the representative relates that the homeless person allegedly cut himself with a piece of glass.

A reverse CLEAR search for phone number § 87(2)(b) returned no name associated with this number (Board Review 15). The investigation was therefore unable to independently confirm who texted 311 about § 87(2)(b).

The investigation also obtained a recording of police radio communications pertaining to this incident (Board Review 06). The dispatcher requests a unit to respond to an “EDP” who slit his wrists at 86th Street and Gelston Avenue. The dispatcher also relays the description provided by 311 over the radio. A lieutenant goes over the radio and relates that this is a chronic caller, and they know who it is.

On November 2, 2022, EMT § 87(2)(b) provided a statement to the CCRB over the phone. On June 10, 2022, at approximately 11:05 p.m., EMT § 87(2)(b) received a dispatch call for an emotionally disturbed person. She did not recall whether the job stated that any weapons were involved, though she believed she remembered reading that a homeless person had been stabbed at the location. The provided description of the victim was a white male in his late twenties to early thirties. EMT § 87(2)(b) arrived with her partner, EMT § 87(2)(b) and canvassed the area while still inside their vehicle, though they did not see anyone in distress.

In under fifteen minutes a police unit comprised of two female officers, PO Bentin and PO Serani, arrived and immediately approached § 87(2)(b) who was standing on the sidewalk in front of a sporting goods store. EMT § 87(2)(b) did not see him before that time. He matched the provided description. PO Bentin and PO Serani told § 87(2)(b) that he had to come with them to the hospital. EMT § 87(2)(b) had not evaluated § 87(2)(b) prior to that time. § 87(2)(b) insisted repeatedly that he did not call. The officers asked him to show them his phone and he refused. The officers related to EMT § 87(2)(b) that § 87(2)(b) calls 911 all the time and

makes up stories. EMT § 87(2)(b) did not recall whether the officers asked him to show his arms and his wrists. EMT § 87(2)(b) did not see any weapons or injuries on § 87(2)(b).

After the officers told EMT § 87(2)(b) and her partner that § 87(2)(b) made these calls repeatedly, the officers and the EMTs made the decision collectively to remove § 87(2)(b) to the hospital for evaluation because he had allegedly stated that he stabbed someone. The officers then guided § 87(2)(b) to the ambulance. At that time, § 87(2)(b) did not appear to be a threat to himself or to other people, though given his previous assertion that he had stabbed someone, the EMTs still determined it would be best to have him evaluated at the hospital. EMT § 87(2)(b) did not remember whether any officer rode with them in the ambulance. The EMTs transported § 87(2)(b) to § 87(2)(b) Hospital (Board Review 07).

EMT § 87(2)(b) testimony was consistent with EMT § 87(2)(b) aside from the following. Though EMT § 87(2)(b) could not remember for sure, he recalled learning either through the job description or on scene that § 87(2)(b) had made the threat to cut his wrists via text message to 311. EMT § 87(2)(b) could not recall whether he had any direct interaction with § 87(2)(b). EMT § 87(2)(b) did not evaluate § 87(2)(b) himself. He stood between ten to twenty feet away while EMT § 87(2)(b) evaluated him. EMT § 87(2)(b) could not hear any of the conversation between the police officers and § 87(2)(b) (Board Review 08).

PO Bentin's BWC video captured the interactions in question (Board Review 02). In the video, PO Bentin parks and exits her vehicle at 00:33. She approaches § 87(2)(b) who stands with PO Serani near the sidewalk in front of the Modell's sporting goods store at the intersection of 86th Street and Gelston Avenue in Brooklyn. He carries a red backpack and wears a white t-shirt, a black jacket, and black sweatpants. PO Bentin says, § 87(2)(b) this has to stop, we've been running around all night." § 87(2)(b) responds at 00:45 that he had not called. PO Serani says, "We have not been here for one day. This is becoming every day." PO Serani asks, "What happened now? Tell me." PO Bentin explains to § 87(2)(b) that someone relayed § 87(2)(b) description over the radio and said that he was going to kill himself. At 1:02, PO Bentin says, "The way it came over today, is that male, him, that's him, slashed his wrists." She asks § 87(2)(b) to show her his wrists at 1:08. The camera does not depict § 87(2)(b) at that time.

At 1:17, PO Serani says, "You've been texting 311 that you slit your—" and § 87(2)(b) checks his phone and says, "No, I haven't." PO Serani says, "This time, you're going to the hospital," at 1:20. § 87(2)(b) repeats that he has not called. At 1:45, PO Serani says, "You called 311 saying that you were going to slit your wrists and now you are going in the hospital. That's it. It's done." She says that she and PO Bentin always take care of him, but they were off and cannot be there all the time. She says, "If we don't answer your texts, then you call 911." § 87(2)(b) responds that he had not called, and PO Serani says, "Yes you texted three times today." § 87(2)(b) shakes his head and at 2:05, PO Serani says, "Okay, you're going to the hospital. Once you state this, there's no way." § 87(2)(b) follows EMT § 87(2)(b) to the ambulance, which is parked several feet ahead. At 4:14 § 87(2)(b) walks inside the ambulance. At 4:40 the officers discuss who will accompany § 87(2)(b) to the hospital. At 4:55 PO Toro gets into the ambulance with § 87(2)(b). PO Bentin, PO Serani, and PO Zourkovski walk back towards their police vehicles. At 5:25 PO Bentin gets into the driver's seat of her police vehicle (Board Review 02).

Patrol Guide Procedure 216-01 states that uniformed members of the service concerned shall cooperate with ambulance/hospital personnel in every reasonable manner (Board Review 09).

Patrol Guide Procedure 221-13 defines an “emotionally disturbed person” as a person who appears to be mentally ill or temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others, and instructs that officers remove such persons to a hospital for evaluation (Board Review 10).

The EMTs and officers in question received a radio communication that an individual matching § 87(2)(b) description and location was cutting his wrists. As such, the officers reasonably believed § 87(2)(b) might imminently cause serious injury to himself. Further, EMT § 87(2)(b) testified that PO Bentin and PO Serani conferred with the EMTs, who agreed that § 87(2)(b) should be removed to the hospital for psychiatric evaluation based on his threats to harm himself. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation (C) Abuse of Authority: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, an officer failed to provide § 87(2)(b) with a business card.

Allegation (D) Abuse of Authority: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Sarah Toro failed to provide § 87(2)(b) with a business card.

Allegation (E) Abuse of Authority: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, an officer obstructed his shield number.

Allegation (F) Abuse of Authority: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Sarah Toro forcibly touched § 87(2)(b)

Allegation (G) Abuse of Authority: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Sarah Toro made a sexually suggestive remark to § 87(2)(b).

§ 87(2)(b)

Allegation (J) Discourtesy: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, an officer spoke discourteously to § 87(2)(b)

§ 87(2)(b) described a male officer responding to this incident. He stated that before officers escorted him to the ambulance, he asked both the male officer and PO Toro for their business cards, but they refused to provide them to him. Additionally, the male officer had his arms folded across his chest and covered his badge with his arm for the entire incident. The male officer told PO Toro to pat § 87(2)(b) down and check for any knives. PO Toro patted down the lower body of § 87(2)(b) then “fondled” his testicles with one hand for a second. As she grabbed his testicles, she looked at § 87(2)(b) and asked, “Oh, do you like that?” § 87(2)(b) replied that he did not and that it was very disrespectful. PO Toro also grabbed § 87(2)(b) buttocks for a few seconds.

§ 87(2)(b) told the officers that there was nothing wrong with him and he did not need to go to the hospital. The male officer responded that he did not “fucking care” (Board Review 03).

PO Bentin testified that there were no male officers present during this incident. She stated that she did not witness an officer grab § 87(2)(b) testicles or buttocks and denied doing so herself. She did not witness any officer ask § 87(2)(b) “Oh, do you like that?” She did not do so herself. PO Bentin did not remember § 87(2)(b) saying that he did not want to go to the hospital. PO Bentin did not witness any officer say that they “did not fucking care” that § 87(2)(b) did not want to go to the hospital. § 87(2)(b) did not request business cards from officers while PO Bentin was on scene. PO Bentin did not observe any officer refuse to

provide a business card to § 87(2)(b) PO Bentin did not hear any officer use profanity during this incident (Board Review 04).

EMT § 87(2)(b) stated that at no time did she witness any officer grab § 87(2)(b) testicles and rear and ask him, “Oh do you like that?” EMT § 87(2)(b) did not believe that § 87(2)(b) asked any of the officers for their business cards, though she believed that he did ask them for their names because he said he was going to get them in trouble. The officers told him that he could take their badge numbers. She did not see any officer give § 87(2)(b) a business card. She did not witness any officer cover their shield with their hand after § 87(2)(b) asked for their name.

EMT § 87(2)(b) did not witness any officer use profanity towards § 87(2)(b) Specifically, she did not witness § 87(2)(b) telling the officers that he did not need to go to the hospital and an officer replying they “did not fucking care” (Board Review 07).

EMT § 87(2)(b) testimony was consistent with EMT § 87(2)(b) (Board Review 08).

The entire incident was captured on BWC. In PO Bentin’s BWC video, before § 87(2)(b) enters the ambulance at 2:15, PO Bentin frisks § 87(2)(b) (addressed below in the analysis of Allegation H). PO Toro does not frisk § 87(2)(b) at any time during the incident. No officer touches § 87(2)(b) testicles or buttocks at any time during the video. No officer asked § 87(2)(b) “Oh, do you like that?”

At 4:14 § 87(2)(b) begins walking towards the ambulance and walks inside. At 4:40 the officers discuss who will accompany § 87(2)(b) to the hospital. At 4:55 PO Toro gets into the ambulance with § 87(2)(b) PO Bentin, PO Serani, and PO Zourkovski walk back towards their police vehicles. At 5:25 PO Bentin gets into the driver’s seat of her police vehicle. (Board Review 02).

The BWC videos reveal that no male officer responded to the scene. Additionally, no BWC video captured any officer using profanity towards § 87(2)(b) or covering their shield. The videos show that § 87(2)(b) did not request any officer’s business card and that no officer refused to provide one (Board Review 01).

BWC videos, which capture the entire incident, do not show § 87(2)(b) ever requesting a business card from any officer, nor any officer covering their badge with their hand for the duration of the incident. As noted, there was no male officer on scene. § 87(2)(g)

While § 87(2)(b) identified PO Toro and specifically not PO Bentin as the officer who allegedly forcibly touched him and made sexually suggestive remarks to him while frisking him, BWC shows that PO Bentin was the only officer who frisked § 87(2)(b) during this incident, as addressed below in the analysis of Allegation H. Given that BWC, which captures the entire incident, does not capture PO Toro, PO Bentin, or any other officer forcibly touching or making sexually suggestive remarks to § 87(2)(b) at any time during this incident, § 87(2)(g)

As BWC, which captures the entire incident, does not capture any officer using profanity towards § 87(2)(b) and given that PO Bentin, EMT § 87(2)(b) and EMT § 87(2)(b) denied witnessing any officer do so, § 87(2)(g)

§ 87(2)(b)
(g)

Allegation (H) Abuse of Authority: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Olga Bentin frisked § 87(2)(b)

Allegation (I) Abuse of Authority: On June 10, 2022, at 86th Street and Gelston Street in Brooklyn, Police Officer Olga Bentin searched § 87(2)(b)

§ 87(2)(b) stated that he carried his cellphone, charger, headphones, and ID in the left side pocket of his jacket, and a water bottle in the left pocket of his sweatpants. He did not have any items in either of his right pockets. The items did not make a bulge in his pockets.

§ 87(2)(b) described PO Toro patting his lower body, but did not specify the manner of the frisk other than describing an officer frisking his groin (addressed above). After PO Toro finished frisking § 87(2)(b) she asked to check his backpack. § 87(2)(b) replied that she could as long as her BWC was turned on. PO Toro opened his bag and looked inside briefly (Board Review 03).

BWC shows that, in fact, PO Bentin was the only officer who frisked and searched § 87(2)(b). In PO Bentin's BWC, at 2:15 she says, "I have to check, and make sure that you have no knife." At 2:49, PO Bentin uses her right hand to press § 87(2)(b) front left jacket pocket against his body, then reaches into it at 2:50. She feels inside the pocket but does not visibly recover anything. PO Bentin then pats down § 87(2)(b) right pocket at 3:01 and reaches inside at 3:02. At 3:05 she retrieves a pack of cigarettes from the pocket and puts it back inside. At 3:08 PO Bentin unzips § 87(2)(b) jacket, pats down his waist area, then pats down his left inner jacket pocket from 3:13 until 3:16. She reaches into the pocket at 3:17 and searches until 3:23, at which time she exits the pocket without recovering anything. At 3:24, PO Bentin uses her right hand to reach inside § 87(2)(b) right inner jacket pocket while her left arm holds the jacket near the pocket area. She does not pat the pocket down first. She concludes her search of the pocket at 3:29 without recovering anything.

At 3:42, PO Bentin then does another pat down of the outside of § 87(2)(b) jacket and of his right leg. At 3:50 PO Bentin pats down and unzips the small outside pocket of § 87(2)(b) backpack and appears to reach inside it until 4:01, though part of her hand and the pocket is out of the frame. PO Bentin pats down the backpack again and asks § 87(2)(b) if he has anything inside the backpack, to which he responds, "No". § 87(2)(b) then walks to the ambulance (Board Review 02).

EMT § 87(2)(b) states that one of the officers, though she could not recall who, patted down § 87(2)(b) pockets, lower body, sweater, and arms. EMT § 87(2)(b) did not recall whether she saw any bulges on § 87(2)(b) body. § 87(2)(b) did not give consent for any of the officers to search him. EMT § 87(2)(b) did not recall whether § 87(2)(b) had a backpack on him, nor whether any officer searched inside that backpack. The officers did not recover anything from the pat down of § 87(2)(b) other than his cell phone (Board Review 07).

PO Bentin testified that she frisked § 87(2)(b) before he entered the ambulance because of her understanding that he sometimes carried knives and because the 911 call indicated that § 87(2)(b) cut himself with a sharp object. PO Bentin did not have any independent information about § 87(2)(b) carrying a knife or any other weapon on his person that day. PO Bentin did not see any bulge on § 87(2)(b) person before initiating the frisk. She

patted down § 87(2)(b) jacket and felt a hard rectangular object approximately three to four inches long and two inches wide inside one of the upper pockets. The pocket was inside the jacket, so PO Bentin asked § 87(2)(b) to unzip it. PO Bentin could not tell if it was sharp through the jacket fabric but thought that it could be a knife, so she reached into the pocket, where she felt a cigarette lighter and a cellphone. The cellphone was smaller than PO Bentin's cellphone, which is approximately two and a half by seven inches. PO Bentin did not remove the items. PO Bentin then felt a hard, square-shaped object in a lower jacket pocket. PO Bentin thought this object could be a knife, so she reached into the pocket and retrieved another cigarette lighter and a pack of cigarettes, which she then returned. PO Bentin then patted down § 87(2)(b) pants pockets. § 87(2)(b) did not have anything in his pants pockets. PO Bentin denied reaching into any pocket without patting it down first. PO Bentin frisked § 87(2)(b) waist by putting her hands on the front and back. She did not recover anything from the frisk.

Given her prior familiarity with § 87(2)(b) who she believed sometimes kept knives and razors in his backpack, PO Bentin asked him to turn around and then squeezed and patted the backpack while he was wearing it. PO Bentin felt a long, hard, and narrow object about the size of a pen in one of the backpack pockets which she believed could be a knife or razor. PO Bentin then opened the pocket to the backpack and saw a toothbrush inside. She did not remember if she saw anything else in the pocket. PO Bentin asked § 87(2)(b) if he had anything on his person that could use to harm himself and he said that he did not. PO Bentin continued to pat down the backpack and could feel glass bottles inside, along with soft material like clothes. PO Bentin did not open the top part of the backpack. She did not ask for consent before entering the backpack.

During the CCRB interview, PO Bentin was presented with her BWC footage from June 10, 2022, linked in IA #25. The video was played from 2:24 until 3:02. The video refreshed PO Bentin's recollection of unzipping § 87(2)(b) jacket, and of where she searched on his person. PO Bentin stated that she entered § 87(2)(b) left pocket because she felt a hard, square object inside. Though she heard § 87(2)(b) say that there was a cellphone charger inside, she did not recall feeling or recovering a cellphone charger. The undersigned continued to play the video from 3:02 until 3:23. PO Bentin stated that the front right pocket was where she felt the rectangular shape of § 87(2)(b) cigarettes and lighter and proceeded to search it believing it could have been a knife. PO Bentin believed she also felt a cellphone when she touched the upper right pocket of § 87(2)(b) jacket, which is why she looked inside. The undersigned continued to play the video from 3:23 until 3:33. PO Bentin did not remember why she entered the upper right pocket on the inside of § 87(2)(b) jacket, though she stated that she thought she felt something. She could not recall what she felt. There was no other reason that PO Bentin searched § 87(2)(b) other than to make sure that he did not have any weapons (Board Review 04).

People v. De Bour, 40 N.Y.2d 210 (1976) established that a police officer has the authority to frisk if the officer reasonably suspects that he is in danger of physical injury by virtue of a detainee being armed (Board Review 11).

People v. Bracy, 91 A.D.3d 1296 (2012) affirmed that officers may seize an object following a legal frisk if they reasonably believe it to be a weapon. The court ruled that after feeling a hard object which an officer reasonably feared to be a weapon during the frisk of a defendant's pocket, the officer did not act unlawfully in reaching into the pocket and removing the object (Board Review 12).

The ruling in *People v. Emerhall*, 694 N.Y.S.2d 870 (1999) states that if a bag is flexible and its contents can be felt by touching its exterior, an officer may not open the bag without first patting it

down, and that such a bag may be opened for a search only when after a pat down, the officer reasonably believes it contains a weapon (Board Review 13).

BWC shows that PO Bentin was the only officer who frisked § 87(2)(b). Given that PO Bentin received information via radio that § 87(2)(b) had used a piece of glass to cut himself, § 87(2)(g)

Similarly, BWC shows that PO Bentin was the only officer who searched § 87(2)(b). Contrary to § 87(2)(b) statement, PO Bentin did not ask for consent prior to searching his backpack. BWC depicts PO Bentin frisking the outer pocket of § 87(2)(b) backpack for around ten seconds before opening it. As PO Bentin described feeling a long, hard object inside § 87(2)(b) bag's pocket when she patted it down, it was reasonable for her to believe that that object could be a knife. Per *People v. Emerhall*, it was therefore reasonable for her to open and inspect the contents of that portion of the bag.

While PO Bentin only recalled searching two of § 87(2)(b) four jacket pockets, BWC in fact shows her searching all four of the pockets. After reviewing her BWC, PO Bentin testified that she felt hard, rectangular objects in three of § 87(2)(b) four pockets prior to searching them, and that she felt a cigarette lighter approximately two to three inches long in two of the pockets she searched. While it is reasonable to believe that the shape of a lighter could resemble that of a pocketknife, PO Bentin failed to articulate how the hard, square-shaped object she allegedly felt in § 87(2)(b) front left pocket resembled the shape of a knife. Furthermore, PO Bentin could not recall what she felt when she patted down the right inner pocket of § 87(2)(b) jacket prior to entering it, nor did she recover anything from that pocket.

Given that PO Bentin did not have adequate reason to believe that the object she allegedly felt inside § 87(2)(b) front left pocket upon frisking that pocket was a knife or any other weapon, and that she could not articulate any reason to believe that the inner right pocket of § 87(2)(b) jacket contained a weapon beyond stating that she felt "something," § 87(2)(g)

Allegation (K) Discourtesy: On June 11, 2022, at 4802 10th Avenue in Brooklyn, an officer spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that at § 87(2)(b) a male officer said to him, "You're just a fucking waste of space. You shouldn't have been born" (Board Review 03).

EMT § 87(2)(b) did not recall whether any officers escorted them inside the hospital waiting area. She did not witness any officer tell § 87(2)(b) "You're such a fucking waste of space. You shouldn't have been born" (Board Review 07).

PO Bentin did not witness any officer tell § 87(2)(b) "You're a fucking waste of space you shouldn't have been born," at the hospital (Board Review 04).

§ 87(2)(b) identified the same male as the officer who spoke discourteously to him both before he entered the ambulance and at the hospital. However, no male officer was present during this incident. Because § 87(2)(b) description of the officer in question was inconsistent with the apparent gender of any officer actually present, § 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Bentin has been a member-of-service for two years and this is the first CCRB complaint to which she has been a subject.
- PO Serani has been a member-of-service for four years and this is the first CCRB complaint to which she has been a subject.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- On December 16, 2022, a Notice of Claim FOIL request was filed with the New York City Office of the Comptroller (Board Review 14). The results are pending as of the writing of this report.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 8

Investigator: Stephanie Dukich Inv. Stephanie Dukich December 22, 2022
Signature Print Title & Name Date

Squad Leader: Samuel Ross SI Samuel Ross 12/22/2022
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date